IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :04.06.2007

C O R A M :

THE HONOURABLE MR.A.P.SHAH, THE CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE P.JYOTHIMANI

W.A.Nos. 466 & 467 of 2007
and connected Miscellaneous Petitions

m/s. Pullicar Mills Limited
rep. By the Managing Director
107 Sankari Main Road
Tiruchengodu
Namakkal District. ... Appellant/Petitioner

-vs-

1.The Presiding Officer
The Labour Court, Salem. .. R.1 in both the appeals
2.K. Palaniappan .. R.2 in W.A.No.466 of 2007
3.A. Dhavamanickam .. R.2 in W.A.No.467 of 2007/
Respondents

Writ Appeals filed under Clause 15 of Letters Patent against the common order of the learned single Judge dated 16.12.2006 made in M.P.No.1 of 2006 in W.P.No.48797 of 2006 and M.P.No.1 of 2006 in W.P.No.48798 of 2006 respectively under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the respondent in ID.No.168/01 and 106/01 respectively dated 02.09.2005 and quash the same as illegal.

For appellant :: Mr. S. Sivanandam
For respondents :: Mr. Raja Kalifulla
Government Pleader for R.1
No appearance for R.2 in both the appeals.

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COMMON JUDGMENT

(DELIVERED BY P.JYOTHIMANI,J.)

These writ appeals are filed by the petitioner in the writ petitions against the common order of the learned single Judge dated 16.12.2006 made in Miscellaneous Petitions in WP.No.48797 and 48798 of 2006, granting interim stay of the award passed by the Labour Court, Salem in I.D.Nos.168 and 106 of 2001 respectively, on condition that the petitioner/employer shall deposit the entire backwages as ordered by the Labour Court within a period of four weeks from the date of receipt of copy of the order.

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2. It is the case of the appellant that the second respondents / workmen having retired on attaining superannuation even in 1992, chosen to raise the dispute after eight years, viz., in the year 2000. It is not in dispute that they have claimed the gratuity amount and after receiving the said amount, raised the dispute before the Labour Court and the said Court accepting the claims of the workmen in respect of their difference in date of birth, passed award directing the benefit of continuity of service from 01.01.1992 till 1998, and also for payment of 50% of backwages and other benefits. In view of the above said factual position, it is the contention of the learned counsel for the appellant that the direction made by the learned single Judge to deposit the entire backwages as ordered by the Labour Court is unjustifiable.

3. We have heard the learned counsel for appellant and the learned Government Pleader appearing for the first respondent Labour Court and it is seen that the second respondent in both the appeals having been served, have not chosen to appear.

4. In view of the above said facts and taking into consideration the Judgement of the Apex Court reported in Haryana State Co.operative Land Development Bank vs. Neelam (2005 (5) SCC 91), there is not only an inordinate delay in this case, but also the employees have retired on superannuation and in fact obtained some of the benefits, we are of the view that the common order passed by the learned single Judge, directing the appellant to deposit the backwages as ordered by the Labour Court is unsustainable. In view of the same, the common order of the learned single Judge made in Miscellaneous Petitions in W.P.Nos.48797 and 48798 of 2006, is set aside and the writ appeals stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

kh

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To

The Presiding Officer
The Labour Court, Salem.

1 cc To Mr.S.Sivanandam, Advocate, SR.31625.

W.A.Nos.466 & 467 of 2007

BV(CO)
RVL 08.06.2007

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